



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 12 2015

Mr. Jay Zimmerman
Acting Director
Division of Water Resources
North Carolina Department of Environment
and Natural Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Dear Mr. Zimmerman:

The purpose of this letter is to approve the revisions to *15A NCAC 02B Surface Water and Wetlands Standards, Section .0306 Broad River Basin*, submitted to the Environmental Protection Agency for review by letter, dated October 29, 2014 and received on November 3, 2014. This letter addresses the revisions to modify the use designations for the Green River (Lake Adger) and its tributaries from Class C to Water Supply IV (WS-IV), including retaining existing Trout designations for certain segments.

A certification dated October 17, 2014, was included in this submission from the North Carolina Attorney General stating that this revision was duly adopted pursuant to State law and is valid and enforceable in the State of North Carolina. In accordance with 40 CFR section 131.21(c), new and revised State and Tribal water quality standards are not effective for Clean Water Act (CWA) purposes until approved by the EPA. Since the revisions modifying the designated uses for these waterbodies each retain all aquatic life uses and supporting water quality criteria of the State's Class C designation, which also apply to WS-IV and WS-IV CA waters, the revisions are consistent with the goals of section 101(a) of the CWA and the implementing regulations at 40 CFR Part 131. In accordance with section 303(c) of the CWA and 40 CFR Part 131, the EPA is approving this revision.

If you have any questions, please feel free to contact me at (404) 562-9345 or have your staff contact Ms. Lauren Petter at (404) 562-9272.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Giattina".

James D. Giattina
Director
Water Protection Division

cc: Mr. Tom Belnick
NC Division of Water Quality, NPDES

**Decision Document of the United States Environmental Protection Agency Determination
Under § 303(c) of the Clean Water Act Review of North Carolina's
2014 Reclassification for Lake Adger (Green River)**

Section 303 of the Clean Water Act (CWA or Act), 33 U.S.C. § 1313, requires states to establish water quality standards (WQS) and to submit any revised or new standards to the EPA for approval or disapproval. In a letter dated October 29, 2014, from Thomas A. Reeder, Director for the Division of Water Resources for North Carolina Department of Environment and Natural Resources (NCDENR or the Department), to Ms. Heather McTeer Toney, Regional Administrator of the U.S. Environmental Protection Agency's Region 4 Office, NCDENR submitted new and revised WQS for review by the EPA pursuant to section 303(c) of the CWA, 33 U.S.C. § 1313(c). In an October 17, 2014 letter, North Carolina's Senior Deputy Attorney General certified that the WQS revisions were duly adopted pursuant to North Carolina law.

The revisions addressed in this document were described in a public hearing on March 27, 2014, and approved for adoption by the North Carolina Environmental Management Commission on July 10, 2014. In general, the revisions incorporate the water supply (WS) classification WS-IV for waters previously classified as Class C or Class C Trout (Tr). For those waters located in the half mile critical area (CA) these waters are also noted with a CA. All other waters without CA, are within the five mile protected area (PA). Further discussion of the CA and PA designations is provided below. These revisions became effective on September 1, 2014, and are described more fully below.

Name of Stream	Previous Description	Revised Description	Previous Class	Revised Class	Stream Index #
Green River, including Lake Adger below elevation 913	Note: From Cove Creek to a point 300 feet downstream of Laurel Branch remains Class C.				
	From Cove Creek to Broad River	From a point 300 feet downstream of Laurel Branch to a point 0.35 mile downstream of Rash Creek	C	WS-IV	9-29-(37.5)
	From Cove Creek to Broad River	From a point 0.35 mile downstream of Rash Creek to the dam at Lake Adger	C	WS-IV; CA	9-29-(38.5)
	Note: From the dam at Lake Adger to Broad River remains Class C.				
Silver Creek	From source to Lake Adger, Green River	From source to a point approximately 0.9 miles downstream of SR1138	C Tr	WS-IV; Tr	9-29-42-1
Silver Creek	From source to Lake	From a point approximately 0.9 miles	C Tr	WS-IV; CA; Tr	9-29-42-2

	Adger, Green River	downstream of SR1138 to Lake Adger, Green River			
Ostin Creek (Grease Creek)	From source to Lake Adger, Green River	From source to a point approximately 1.2 miles downstream of SR1138	C Tr	WS-IV; Tr	9-29-41-1
Ostin Creek (Grease Creek)	From source to Lake Adger, Green River	From a point approximately 1.2 miles downstream of SR1138 to Lake Adger, Green River	C Tr	WS-IV; CA; Tr	9-29-41-2
Rotten Creek	From source to Lake Adger, Green River	From source to a point approximately 1.8 miles downstream of SR1138	C Tr	WS-IV; Tr	9-29-40-1
Rotten Creek	From source to Lake Adger, Green River	From a point approximately 1.8 miles downstream of SR1138 to Lake Adger, Green River	C Tr	WS-IV; CA; Tr	9-29-40-2
Panther Creek	From source to Lake Adger, Green River	From source to a point approximately 0.2 miles downstream of SR1138	C Tr	WS-IV; Tr	9-29-39-1
Panther Creek	From source to Lake Adger, Green River	From a point approximately 0.2 miles downstream of SR1138 to Lake Adger, Green River	C Tr	WS-IV; CA; Tr	9-29-39-2
Rash Creek	From source to Lake Adger,	No Change	C Tr	WS-IV; Tr	9-29-38

	Green River				
Brights Creek	From source to Rash Creek	No Change	C Tr	WS-IV; Tr	9-29-38-1
Harm Creek	From source to Rash Creek	No Change	C Tr	WS-IV; Tr	9-29-38-1-1

Based on a request from Polk County, the above revisions were made to ensure specific future water quality protections for the waterbodies in anticipation of their eventual use as a water supply following completion of a water intake structure and water treatment plant. In making these revisions, North Carolina has provided additional protection to the subject waters for use as a potable water supply source. In the accompanying submittal documents, North Carolina provides information on the five specific water supply (WS) classifications. Water supply classifications protect “sources of water supply for drinking, culinary or food processing purposes as well as for all Class C purposes [and] the instream numerical standards are identical for each of the water supply classifications.” Although the WS-IV classification was proposed and eventually adopted, the EPA noticed that within the public comments received there was some discussion on whether the WS-III classification should be adopted as opposed to the proposed WS-IV classification. In an email dated January 26, 2015, from Elizabeth Kountis, NCDENR, Ms. Kountis clarified that the WS-IV designation was pursued “[b]ecause Henderson County would not pass a resolution for the WS-III reclassification” and the “WS-IV watershed does not include land and waters within Henderson County, whereas a WS-III would have.” Therefore, North Carolina pursued the WS-IV as the appropriate classification for the segments identified in this current submittal. As indicated in the table above, modifications of classifications of waters from Class C to Class WS-IV were the substance of this action.

With regard to the water quality criteria and designated use expectations, Class C applies to all fresh waters of the State and includes protection for aquatic life propagation, maintenance of biological integrity, fishing, wildlife, secondary recreation, agriculture and any other usages except primary recreation or as a water supply. As indicated by 15A NCAC 02B.0216, the WS-IV category is for those waters that are a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I, WS-II, or WS-III classification is not feasible. WS-IV waters must also meet all of the requirements for best usage specified for Class C waters under 15A NCAC 02B .0211. The CA designation is for the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than in the remaining portions of the watershed, typically the land and waters within 0.5 miles above the intake. The PA designation is for the area adjoining and upstream of the CA designated area in a WS-IV watershed.

In an April 4, 2011 memorandum, the Division of Water Quality evaluated the Lake Adger 2010 Study report to determine whether the water supply standards were met. North Carolina conducted sampling of chemical and physical parameters in August 1989, July 1995, June 2000 and Public Water Supply and Odom Hollifield and Associates conducted monthly sampling in 2007-2008. The 2011 memorandum indicated a single pH excursion of 5.9 at the most upstream station in February 2008. Additionally, the Intensive Survey Unit monitored three ambient lake monitoring stations five times during the growing season of 2010 and indicated an overall meeting of Class C and WS water quality criteria.

A public hearing was held in Mill Spring, North Carolina on March 27, 2014. Thirty-eight people registered at the hearing with eight providing oral comments, with seven in support of the reclassification and the eighth speaker not providing a stance on the proposal. In addition to oral comments, written comments were provided to the Division of Water Resources (DWR) and in the State's Report of Proceedings document, they have summarized the concerns contained in those comment letters along with a response from DWR.

Under the National Environmental Policy Act, an Environmental Assessment (EA) was conducted. As the EPA noted in our most recent approval of WS classifications (September 30, 2013), during the EA the DWR should ensure that new surface water withdrawals will not result in conditions that affect the waterbody's ability to meet state WQS. The EPA appreciated the opportunity to comment on this EA and noted in our comments that while the DWR may have policies relating to minimum flows, those evaluations may not fully evaluate the ability to maintain the designated use (i.e. aquatic life) or other numeric (i.e. DO or temperature) or narrative criteria (i.e. biological integrity criteria). The EPA appreciated the DWR's offer during a call on February 12, 2015 to follow-up to ensure that the procedures are in place to conduct these evaluations in future water supply projects. Finally, a reduction in flow in a segment upstream of a National Pollutant Discharge Elimination System discharge may necessitate a review of the flow used in the calculations for effluent limits and revision of permit conditions, as needed.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) requires federal agencies, in consultation with the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service to ensure that their actions are not likely to jeopardize the continued existence of federally listed species or result in the destruction or adverse modification of designated critical habitat of such species.

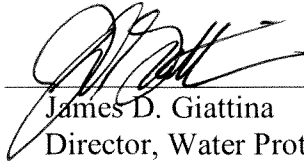
With regard to consultation activities for section 7 of the ESA, only the FWS would be coordinated with on this fresh water action, however, the EPA Region 4 office concluded that there is no discretion to consult because all the newly applicable criteria associated with the WS designated use are related to human health protection. Therefore, no consultation with the FWS is required.

Conclusions

Based on the reasons outlined above, it is our conclusion that the requirements of the CWA and 40 CFR Part 131 have been met for the revised use classifications and the revisions are therefore approved.

3/9/15

Date


James D. Giattina
Director, Water Protection Division